



Billing Code 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC444

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for comment.

SUMMARY: Notice is hereby given that NMFS has received a Tribal Resource Management Plan (TRMP) from the Nez Perce Tribe (NPT), and an updated Fishery Management and Evaluation Plan (FMEP) for fishery management in the Snake River Basin in Northeast Oregon. The TRMP is provided pursuant to the Tribal 4(d) Rule; the FMEP is provided pursuant to the salmon and steelhead 4(d) Rule. This document serves to notify the public of the availability for comment of the proposed evaluation of the Secretary of Commerce (Secretary) as to how the NPT TRMP addresses the criteria in the ESA, and of the FMEP. NMFS also announces the availability of a supplemental draft Environmental Assessment (EA) for the pending determination.

DATES: Comments and other submissions must be received at the appropriate address or fax number (see ADDRESSES) no later than 5 p.m. Pacific time on [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Written responses to the application should be sent to Enrique Patiño, National Marine Fisheries Services, Salmon Management Division, 7600 Sand Point Way N.E., Seattle, WA 98115. Comments may also be submitted by e-mail to:

[NEOregonFisheryPlans.nwr@noaa.gov](mailto:NEOregonFisheryPlans.nwr@noaa.gov). Include in the subject line of the e-mail comment the following identifier: Comments on Northeast Oregon Fishery Plans.

Comments may also be sent via facsimile (fax) to (206) 526-6736. Requests for copies of the documents should be directed to the National Marine Fisheries Services, Salmon Management Division, 7600 Sand Point Way N.E., Seattle, WA 98115. The documents are also available on the Internet at [www.nwr.noaa.gov](http://www.nwr.noaa.gov). Comments received will also be available for public inspection, by appointment, during normal business hours by calling (503) 230-5418.

FOR FURTHER INFORMATION CONTACT: Enrique Patiño at (206) 526-4655 or e-mail: [enrique.patino@noaa.gov](mailto:enrique.patino@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Species Covered in This Notice

Chinook salmon (*Oncorhynchus tshawytscha*): threatened, naturally produced and artificially propagated Snake River Spring/Summer-run.

Steelhead (*O. mykiss*): threatened, naturally produced and artificially propagated Snake River Basin.

##### Background

Previously, NMFS had received fishery management plans for fisheries in tributaries of northeast Oregon. These plans, submitted by the Shoshone-Bannock Tribes, the Confederated Tribes of the Umatilla Indian Reservation, and the Oregon Department of Fish and Wildlife were the subjects of a draft environmental assessment and associated documents provided for public review and comment (76 FR 49735, August 11, 2011). Subsequent to that 30-day comment period, on February 17, 2012,

NMFS received an updated TRMP from the NPT, addressing management of NPT fisheries in the Grande Ronde and Imnaha Rivers. NMFS also received an updated FMEP from Oregon describing inclusion of spring/summer Chinook salmon fisheries in the Washington State portion of the Grande Ronde River to be managed by the Washington Department of Fish and Wildlife on April 24, 2012. NMFS received additional comments clarifying aspects of the proposed actions. NMFS prepared a proposed evaluation of and pending determination on the NPT fishery plan, and updated the NMFS EA to incorporate the additional information.

The FMEPs and TRMPs propose to manage all spring/summer Chinook salmon fisheries to achieve escapement objectives. The FMEPs and TRMPs utilize a harvest rate with five tiers based on predicted adult abundance to each of the affected populations. The majority of the harvest is anticipated to come from hatchery-origin stocks. The FMEPs and TRMPs also describe a process to guide coordination of fishery design and implementation between the agencies implementing fisheries in the action area.

As required by the ESA 4(d) Rule for Tribal Plans (65 FR 42481, July 10, 2000 [50 CFR 223.209]), the Secretary must determine pursuant to 50 CFR 223.209 and pursuant to the government-to-government processes therein whether the TRMPs for fisheries in Northeast Oregon would appreciably reduce the likelihood of survival and recovery of Snake River spring/summer and Snake River Basin steelhead. The Secretary must take comments on his pending determination as to whether the TRMPs address the criteria in the Tribal 4(d) Rule and in §223.203(b)(4).

As specified in §223.203 (b)(4) of the ESA 4(d) Rule, NMFS may approve an FMEP if it meets criteria set forth in §223.203 (b)(4)(i)(A) through (I). Prior to final

approval of an FMEP, NMFS must publish notification announcing its availability for public review and comment.

NEPA requires Federal agencies to conduct an environmental analysis of their proposed actions to determine if the actions may affect the human environment. NMFS expects to take action on three ESA section 4(d) TRMPs and two ESA section 4(d) FMEPs. Therefore, NMFS is seeking public input on the scope of the required NEPA analysis with the inclusion of the additional proposed activities, including the range of reasonable alternatives and associated impacts of any alternatives.

The final NEPA, TRMP, and FMEP determinations will not be completed until after the end of the 30-day comment period and will fully consider all public comments received during the comment period. NMFS will publish a record of its final action on the TRMPs in the Federal Register.

#### Authority

Under section 4 of the ESA, NMFS, by delegated authority from the Secretary of Commerce, is required to adopt such regulations as he deems necessary and advisable for the conservation of the species listed as threatened. The ESA salmon and steelhead 4(d) Rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. Limit 4 of the updated 4(d) rule (50 CFR 223.203(b)(4)) further provides that the prohibitions of paragraph (a) of the updated 4(d) rule (50 CFR 223.203(a)) do not apply to activities associated with fishery harvest provided that an FMEP has been approved by NMFS to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, June 28, 2005). The ESA Tribal 4(d) Rule (65 FR 42481, July

10, 2000) states that the ESA section 9 take prohibitions will not apply to TRMPs that will not appreciably reduce the likelihood of survival and recovery for the listed species.

Dated: January 16, 2013

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Angela Somma, Chief, Endangered Species Division, Office of Protected Resources,  
National Marine Fisheries Service.

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